



Shelby County Government

MARK H. LUTTRELL, JR.
MAYOR

August 23, 2012

Honorable Sidney Chism
Chairman, Shelby County Board of Commissioners
160 N. Main Street
Memphis, TN 38103

Dear Chairman Chism:

In accordance with Section 2.07 of the Shelby County Charter, I am returning Resolution # 18A adopted by the Shelby County Board of Commissioners on August 13, 2012 with my veto affixed. As I stated in the Budget Committee meeting of August 8, 2012 and at the full Commission meeting on August 13, 2012, I cannot support a sales tax increase of .5% at this time. I have consistently made my position clear that we must allow the Unified School Board the opportunity to make some very difficult decisions regarding the school budget for FY 14 and to make every attempt to live within the Maintenance of Effort funding level. If they make those hard decisions and bring a reasonable budget to the Commission that requires additional funds from the County, then a sales tax increase may be a viable course of action. At this time, I consider the tax increase to be premature.

I regret that the veto is necessary; however, I cannot in good conscience approve a sales tax increase that I do not believe is warranted at this time and, therefore, is not in the best interests of Shelby County Government and the taxpayers of Shelby County.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark H. Luttrell, Jr.", is written over a horizontal line.

Mark H. Luttrell, Jr.
Mayor

HLK:lh

CC: County Attorney

Item #: 18A

Moved by: RITZ

Prepared by: Robert B. Rolwing

Seconded by: MULROY

Approved by: Kelly Rayne

RESOLUTION TO INCREASE THE LOCAL OPTION SALES TAX IN SHELBY COUNTY FROM 2.25% TO 2.75% AND REQUESTING THE SHELBY COUNTY ELECTION COMMISSION TO CONDUCT A REFERENDUM ON THE QUESTION AT THE NOVEMBER 6, 2012, ELECTION. SPONSORED BY COMMISSIONER RITZ.

WHEREAS, The 1963 Local Option Revenue Act, codified at Tennessee Code Annotated, Section 67-6-701, et seq., provides that the Local Option Sales and Use Tax Rate may be increased up to two and three-fourths percent (2.75%) on the sale or use of personal property; and

WHEREAS, The 1963 Local Option Revenue Act permits counties, cities, and towns to levy a tax not to exceed, in toto, two and three-fourths percent (2.75%) on all privileges exercised therein, subject to approval by a majority of citizens voting in a referendum on the question pursuant to Tennessee Code Annotated, Section 2-3-204; and

WHEREAS, Shelby County presently levies a local sales tax of two and one-fourth percent (2.25%), leaving a margin of one half cent (0.5%) for additional tax to be levied by a municipality or the County; and

WHEREAS, At the August 2, 2012, election, the voters of Arlington, Bartlett, Collierville, Germantown, and Lakeland all approved in those municipalities an increase in the sales and use tax from 2.25% to 2.75%; and

WHEREAS, On July 17, 2012, the Memphis City Council approved Ordinance No. 5460 on Third Reading, calling for a Referendum of Memphis voters on whether to increase the municipality's Sales and Use Tax from 2.25% to 2.75%, which Ordinance became effective upon reading of the Minutes on August 7, 2012; and

WHEREAS, State law provides that upon receiving notice of a municipality's intent to increase the Local Option Sales and Use Tax, a county has 40 days from the effective date of the municipality's Ordinance to authorize a Referendum on the question of whether to instead increase the rate of the Local Option Sales and Use Tax on a County-wide basis, which 40 days does not preclude a later County Referendum on the subject, Tennessee Code Annotated, Section 67-6-703(b); and

WHEREAS, This Board of County Commissioners proposes that an increase in Local Option Sales Tax be levied by Shelby County and to submit to the qualified voters of the County a Referendum at the November 2012 election regarding this Resolution and subsequent tax increase.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That pursuant to Tennessee Code Annotated, Section 67-6-701, et seq., the Sales and Use Tax of Shelby County is increased from 2.25% to 2.75% except where different Sales Tax Rates for particular goods and services are set by statute and are not subject to variation.

BE IT FURTHER RESOLVED, That pursuant to Tennessee Code Annotated, Section 67-6-706, the qualified voters of the County must approve this Resolution at a Referendum in order for it to become effective.

BE IT FURTHER RESOLVED, That the Minutes Clerk shall, before September 7, 2012, submit a certified copy of this Resolution to the Shelby County Election Commission with a request that the following question be placed on the ballot at the November 6, 2012, election:

Shall the Resolution of the Board of County Commissioners, increasing the County Sales Tax from 2.25% to 2.75%, except where the Sales Tax Rate is limited or modified by statute, be approved?

FOR the Resolution (Yes): _____

AGAINST the Resolution (No): _____

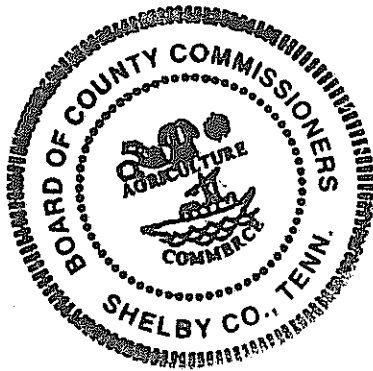
BE IT FURTHER RESOLVED, That if a majority of those qualified and voting in the Referendum required by Tennessee Code Annotated, Section 67-6-706, vote for the increase in the tax imposed by this Resolution, collection of the increased tax levied by this Resolution shall begin at the earliest date allowed by State law. If a majority of those qualified and voting in the Referendum vote against this Resolution, the increase in Sales Tax will not become effective.

BE IT FURTHER RESOLVED, As required at Tennessee Code Annotated, Section 67-6-710(d)(2), this Board of County Commissioners designates the Mayor as the officer against whom suit may be filed for the recovery of Sales Taxes illegally assessed or collected.

BE IT FURTHER RESOLVED, That the Minutes Clerk shall furnish a certified copy of this Resolution to the State Department of Revenue in accordance with regulations prescribed by the Department.

BE IT FURTHER RESOLVED, That the various portions of this Resolution are severable, and that a defect in any part or sentence may be elided, and shall not affect the remaining parts or sentences of the Resolution.

BE IT FURTHER RESOLVED, That this Resolution shall take effect according to the Shelby County Charter.



Mark H. Luttrell, Jr.
County Mayor

Date: _____

ATTEST:

Evelyn Guy
Clerk of County Commission

ADOPTED: August 13, 2012

